IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 471 OF 2002

Ramnath Parvatrao Gunjal .. Applicant

versus

Samita Suresh Mulik .. Respondent

...

Ms.Gauri Godse for the applicant.

None for the respondent.

CORAM : D.G. KARNIK, J

DATED : 20th September 2006

P.C.:

1. Learned counsel for the revision applicant states that the sole plaintiff in the suit, who is the respondent no.6 in this revision application, i.e. Shri Keru U. Sathe has died on 21st January 2003. She however states that as the intimation of the death has not been given to the revision applicant, his heirs could not be brought on record.

2. Under Order 22 of the Code of Civil Procedure

read with article 120 of the Limitation Act, heirs are required to be brought on record within 90 days of the death. If the heirs are not brought on record within the statutory period, the proceeding stands abated automatically. Passing of an order of abatement by the Court is only a formality. Hence, revision application against respondent no.6 stands abated.

3. Respondent no.6 is a necessary party to the revision application as he was a sole plaintiff in the suit. Hence, the entire revision application stands abated.

(D.G. KARNIK, J)